Chapter 9

State Practice in Deep Seabed Mining: The Case of the People’s Republic of China

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1 Introduction

Under the 1982 United Nations Convention on the Law of the Sea (UNCLOS), the international deep seabed area is named “the Area”, which, together with its resources, is the common heritage of mankind.¹ No State should claim or exercise sovereignty or sovereign rights over any part of the Area or its resources, nor should any State or natural or legal person appropriate any part thereof.²

Since deep seabed areas beyond the limit of national jurisdiction have been treated as the common heritage of mankind, all activities there are governed by the international regime created under the UNCLOS. The International Seabed Authority (ISA) was accordingly established on 16 November 1994, upon the entry into force of the UNCLOS. The ISA has its headquarters in Kingston, Jamaica and functions as the representative of the whole of mankind for the management of deep seabed mining. The ISA is an autonomous international organization under the UNCLOS and the 1994 Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea (the 1994 Agreement),³ and through it States Parties to the UNCLOS can, in accordance with the regime for the seabed and ocean floor and subsoil thereof beyond the limits of national jurisdiction (the Area) established in Part XI and the 1994 Agreement, organize and control activities in the Area, particularly


² UNCLOS, Art. 137 (1).
with a view to administering the resources of the Area.⁴ Deep seabed mining, once described as ‘a remote possibility’,⁵ has gradually become a more realistic proposition, as can be seen from the increased activities carried out by States concerned. In State practice, China’s activities and contributions to the deep seabed mining regime merits closer examination.

2 China at UNCLOS III

In 1971, the People’s Republic of China (PRC) took the seat in the United Nations as the sole legitimate government of the whole of China, and accordingly sent delegations to attend UNCLOS III from beginning to end (1973–1982). During UNCLOS III, China submitted a working paper specifically on ‘General Principles for the International Sea Area’. According to the Chinese view, the ocean and the sea should be divided into two parts under the law of the sea: the sea area within the limits of national jurisdiction, and the international sea area including ‘all the sea and ocean space beyond the limits of national jurisdiction’.⁶ The international sea area and its resources are, in principle, jointly owned by the people of all countries.⁷ It is clear that China’s concept of the “international sea area” is different from that of the “international seabed area” in the sense that the Chinese concept does not limit itself to the deep seabed.

China did not use the term “high seas” in referring to the international sea area, as China viewed the term as obsolete, appearing as it did in the four 1958 Geneva Conventions to which China had not acceded: in China’s eyes, the Geneva Conventions were representative of the old law of the sea. While the old law of the sea served only the interests of a few big powers, the new UNCLOS laid down a number of important legal principles for safeguarding

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⁷ Ibid.